

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1537

Short Title: Video Gaming Entertainment Act. (Public)

Sponsors: Representative Jones.

Referred to: Judiciary II, if favorable, Finance.

April 23, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW VIDEO GAMING FOR THE PURPOSE OF PROFIT SHARING  
3 WITH THE STATE OF NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** The General Statutes are amended by adding a new Chapter to read:

6 **"Chapter 18D.**

7 **"Video Gaming Entertainment.**

8 **"Article 1.**

9 **"General Provisions.**

10 **"§ 18D-101. Citation.**

11 This Chapter shall be known as, and may be cited as, the Video Gaming Entertainment Act.

12 **"§ 18D-102. Definitions.**

13 The following definitions apply in this Chapter:

14 (1) Department. – The Department of Revenue.

15 (2) Gross income. – Wagers inserted into a video gaming machine minus credits  
16 paid out in cash.

17 (3) Licensed establishment. – Any establishment owned or managed by a permit  
18 holder and licensed by the Department.

19 (4) Licensed operator. – A person who owns a video gaming machine for which  
20 a video gaming permit has been issued by the Department.

21 (5) Manufacturer. – An individual, partnership, corporation, or association that  
22 assembles, repairs, or produces video gaming machines or associated  
23 equipment for sale or use in this State.

24 (6) Video gaming machine. – As defined in G.S. 14-306.1A.

25 (7) Video gaming permit. – A permanently affixed tag or other device issued to  
26 a licensed operator for each video gaming machine approved by and  
27 registered with the Department.

28 (8) Wager. – A sum of money or thing of value risked on an uncertain  
29 occurrence.

30 **"Article 2.**

31 **"Permits.**

32 **"§ 18D-201. Video gaming permit required on video gaming machines.**

33 (a) The Department shall make available a video gaming permit that shall be affixed to  
34 all approved video gaming machines in a location and manner set forth by the Department. The  
35 placement of the video gaming permit represents that the machine has been registered,  
36 inspected, and approved for operation in the State.



1       **(b) The Department shall issue the video gaming permit annually, based on the number**  
2 **of approved machines registered with the Department per licensed operator.**

3       **(c) No person other than authorized Department personnel and the licensed operator**  
4 **may affix or remove a video gaming permit.**

5       **(d) Manufacturers and licensed operators must make video gaming machines and**  
6 **associated equipment available for inspection by the Department.**

7       **(e) No video gaming machine may be transported out of the State until the video**  
8 **gaming permit has been removed.**

9 **"§ 18D-202. Qualifications for licensed operator.**

10       **(a) Except as provided in subsection (b) of this section, an individual, group of**  
11 **individuals, corporation, partnership, or association whom the Department determines is**  
12 **qualified to receive a license under this Chapter shall be issued an operator's license.**

13       **(b) The Department may not approve a licensed operator applicant if any of the**  
14 **following apply:**

15           **(1) The applicant has not been a resident of North Carolina for at least three**  
16 **years immediately preceding the application.**

17           **(2) The applicant has been convicted of a felony or any gambling offense in any**  
18 **state or federal court of the United States within 10 years of entering into the**  
19 **contract, or employs officers and directors who have been convicted of a**  
20 **felony or any gambling offense in any state or federal court of the United**  
21 **States within 10 years of entering into the contract.**

22           **(3) The applicant is less than 21 years of age.**

23           **(4) The applicant has falsified the application.**

24           **(5) The applicant is not current in filing all applicable tax returns to the State**  
25 **and in payment of all taxes, interest, and penalties owed to the State,**  
26 **excluding items under formal appeal under applicable statutes.**

27           **(6) The applicant is a permit holder or an employee of a licensed establishment.**

28       **(c) The applicant must furnish all information, documents, certifications, consents,**  
29 **waivers, individual history forms, and other materials required or requested by the Department**  
30 **for purposes of determining qualification for an operator's license. The Department may not**  
31 **approve a licensed operator applicant if the applicant fails to provide information and**  
32 **documentation requested by the Department.**

33       **(d) The applicant must submit to a background investigation, including each partner,**  
34 **director, officer, and all stockholders of any business entity. The application shall be**  
35 **accompanied by the fee to cover the cost of the criminal record check conducted under**  
36 **G.S. 114-19.26.**

37       **(e) A licensed operator may not make available a total of more than 500 video gaming**  
38 **machines in the State to be played or operated at any one time.**

39       **(f) The burden of proofing qualification shall be on the applicant.**

40 **"§ 18D-203. Licensed establishments.**

41       **(a) The Department may not license any establishment in which the applicant is:**

42           **(1) A natural person under 21 years of age.**

43           **(2) A person whose establishment would be engaged exclusively in the business**  
44 **of housing video gaming machines.**

45           **(3) A person who is not current in filing all applicable tax returns to the State**  
46 **and in payment of all taxes, interest, and penalties owed to the State,**  
47 **excluding items under formal appeal under applicable statutes. Upon request**  
48 **of the Director, the Department of Revenue shall provide this information**  
49 **about a specific person to the Commission.**

50       **(b) The applicant for a licensed operator's status shall provide all of the following**  
51 **information to the Department:**

1 (1) Name of the licensed establishment.

2 (2) Address of the licensed establishment.

3 (3) Phone number of the licensed establishment.

4 (4) Name, address, and phone number of the owner of the licensed  
5 establishment.

6 (c) The application shall be accompanied by the fee to cover the cost of the criminal  
7 record check conducted under G.S. 114-19.26.

8 (d) There shall be no more than one licensed establishment per single roofline.

9 **"§ 18D-204. Fees.**

10 (a) Each applicant for an operator's license shall pay a fee of five thousand dollars  
11 (\$5,000) for an operator's license valid for 10 years. The operator's license may be renewed in  
12 the ninth year.

13 (b) The Department shall charge a licensed operator an annual fee of two hundred  
14 dollars (\$200.00) per video gaming machine. The fee shall be prorated on a quarterly basis and  
15 may not be refunded if the video gaming machine ceases operation before the permit expires.  
16 Failure to pay shall be cause for revocation of the operator's license.

17 (c) The fees collected under this section shall be used by the Department for the  
18 application and enforcement of this Chapter.

19 "Article 3.

20 "Video Gaming Machines.

21 **"§ 18D-301. Possession.**

22 (a) Only video gaming machines with a video gaming permit may be placed in a  
23 licensed establishment. No more than 10 video gaming machines with a video gaming permit  
24 may be located in any licensed establishment.

25 (b) Licensed operators shall file with the Department the location of any establishment  
26 in which permitted video gaming machines are located, and those locations shall be licensed  
27 establishments.

28 (c) Video gaming machines with a video gaming permit may not be played by persons  
29 less than 18 years of age.

30 (d) The Department shall adopt rules regulating temporary replacement of a video  
31 gaming machine for servicing and repair. The Department may not charge an additional fee for  
32 the temporary replacement video gaming machine.

33 (e) The Department may engage an independent firm experienced in security  
34 procedures, including computer security and systems security, to conduct a comprehensive  
35 study and evaluation of all aspects of security in the operation of the video gaming machines.  
36 At a minimum, such a security assessment should include a review of network vulnerability,  
37 application vulnerability, application code review, wireless security, security policy and  
38 processes, security/privacy program management, technology infrastructure and security  
39 controls, security organization and governance, and operational effectiveness.

40 **"§ 18D-302. Play.**

41 A video gaming machine with a video gaming permit may not allow more than five dollars  
42 (\$5.00) to be played on a single wager.

43 **"§ 18D-303. Video gaming contract.**

44 (a) The Department shall develop a model contract to be used between licensed  
45 operators and licensed establishments. The Department may seek input into the development of  
46 the model contract from licensed operators and permit holders.

47 (b) All contracts between licensed operators and licensed establishments shall address  
48 the need to report to the Internal Revenue Service and the Department, if any, of the credits  
49 paid out in cash to individuals playing the video gaming machine.

50 (b) Other than the compensation provided in G.S. 18D-40, a licensed operator shall not  
51 offer any item of value to a licensed establishment or an employee of a licensed establishment

1 in exchange for allowing the licensed operator to place video gaming machines in the licensed  
2 establishment.

3 **"§ 18D-304. Transportation between licensed establishments in the State.**

4 Any person transporting a video gaming machine from one licensed establishment to  
5 another in the State, other than for servicing or repair, shall notify the Department in writing  
6 prior to the transportation of the video gaming machine. The written notification shall contain  
7 at least all of the following:

- 8 (1) The full name and address of the person or entity transporting the video  
9 gaming machine.
- 10 (2) The reason for the transportation of the video gaming machine.
- 11 (3) The full name, address, and license number of the licensed establishment  
12 where the video gaming machine is currently located.
- 13 (4) The full name and address of the person or entity to whom the video gaming  
14 machine is being delivered and the destination of the video gaming machine  
15 if it is different from the address.
- 16 (5) The serial and model number of the video gaming machine.
- 17 (6) The video gaming machine permit number.
- 18 (7) The expected date and time of the transportation.

19 "Article 4.

20 "Manufacturers.

21 **"§ 18D-401. License; fees; restrictions.**

22 (a) It is unlawful for any person to assemble, produce, test, or manufacture any video  
23 gaming machine or associated equipment for use or play in this State without a video gaming  
24 machine manufacturer's license issued by the Department.

25 (b) A licensed manufacturer may supply a video gaming machine only to another  
26 licensed manufacturer or to a licensed operator, distributor, or route operator.

27 (c) This section does not apply to the distribution of video gaming machines to  
28 individuals or organizations outside this State.

29 (d) Except as provided in this section, the Department shall charge an annual license fee  
30 of one thousand dollars (\$1,000) for the issuance or renewal of a manufacturer's license.

31 (e) Except as provided in this section, the Department may charge the applicant for a  
32 manufacturer's license an additional onetime processing fee. The application processing fee  
33 may not exceed the Department's actual costs for processing the application.

34 (f) The Department may waive the manufacturer's license fee and the application  
35 processing fee provided in this section if the applicant is a licensed operator.

36 (g) A licensed manufacturer may possess unlimited video gaming machines for the  
37 purposes of distribution, manufacturing, or repairing, so long as the video gaming machines are  
38 not played and no prizes are awarded.

39 "Article 5.

40 "Profit Sharing.

41 **"§ 18D-501. Distribution of gross income.**

42 (a) A licensed operator shall pay to the Department twenty percent (20%) of the gross  
43 income from each video gaming machine issued a permit under this Chapter. The remaining  
44 eighty percent (80%) shall be divided equally between the licensed operator and the permit  
45 holder. The permit holder may deduct from the gross income amounts equal to amounts stolen  
46 from video gaming machines if the amounts stolen are not repaid by insurance or under a court  
47 order, if a law enforcement agency investigated the theft, and if the theft is the result of either  
48 unauthorized entry and physical removal of the money from the machines or of machine  
49 tampering and the amounts stolen are documented.

50 (b) A licensed operator shall keep a record of the gross income from each video gaming  
51 machine issued a permit under this Chapter in the form the Department requires. The records

1 must at all times during the business hours of the licensee be subject to inspection by the  
2 Department.

3 (c) For each video gaming machine issued a permit under this Chapter, a licensed  
4 operator shall, within 15 days after the end of each quarter, complete and deliver to the  
5 Department a statement showing the total gross income, together with the total amount due to  
6 the State under subsection (a) of this section. The statement shall contain all relevant  
7 information that the Department requires.

8 (d) Failure to remit full payment, including interest penalties, within 15 days after the  
9 end of each quarter shall result in the suspension or revocation of the license and may result in  
10 the imposition of civil fines as set forth by the Department.

11 (e) The Department shall forward the tax collected under subsection (a) of this section  
12 to the General Fund.

13 (f) No less than fifty percent (50%) of the tax collected under subsection (a) of this  
14 section shall be used to provide supplemental funds to low-wealth counties to allow those  
15 counties to enhance the instructional program and student achievement as stated in  
16 G.S. 115C-81.

17 "Article 6.

18 "Enforcement.

19 "**§ 18D-601. Enforcement.**

20 The Unauthorized Substance Division of the Department shall have sole enforcement  
21 authority of this Chapter.

22 "**§ 18D-602. Inspection of premises, records, activities.**

23 At any time during normal business hours, the Department may inspect a licensed  
24 establishment or a licensed manufacturer. The inspection may include the examination of  
25 records, equipment, and proceeds related to the operation."

26 SECTION 2. G.S. 14-292 reads as rewritten:

27 "**§ 14-292. Gambling.**

28 Except as provided in Chapter 18C or Chapter 18D of the General Statutes or in Part 2 of  
29 this Article, any person or organization that operates any game of chance or any person who  
30 plays at or bets on any game of chance at which any money, property or other thing of value is  
31 bet, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor. This section  
32 shall not apply to a person who plays at or bets on any lottery game being lawfully conducted  
33 in any state."

34 SECTION 3. G.S. 14-293 reads as rewritten:

35 "**§ 14-293. Allowing gambling in houses of public entertainment; penalty.**

36 Except as provided in Chapter 18C or Chapter 18D of the General Statutes, if any keeper of  
37 an ordinary or other house of entertainment, or of a house wherein alcoholic beverages are  
38 retailed, shall knowingly suffer any game, at which money or property, or anything of value, is  
39 bet, whether the same be in stake or not, to be played in any such house, or in any part of the  
40 premises occupied therewith; or shall furnish persons so playing or betting either on said  
41 premises or elsewhere with drink or other thing for their comfort or subsistence during the time  
42 of play, he shall be guilty of a Class 2 misdemeanor. Any person who shall be convicted under  
43 this section shall, upon such conviction, forfeit his license to do any of the businesses  
44 mentioned in this section, and shall be forever debarred from doing any of such businesses in  
45 this State. The court shall embody in its judgment that such person has forfeited his license, and  
46 no board of county commissioners, board of town commissioners or board of aldermen shall  
47 thereafter have power or authority to grant to such convicted person or his agent a license to do  
48 any of the businesses mentioned herein."

49 SECTION 4. G.S. 14-296 reads as rewritten:

50 "**§ 14-296. Illegal slot machines and punchboards defined.**

1 Except as provided in Chapter 18D of the General Statutes, ~~An~~an illegal slot machine or  
2 punchboard within the contemplation of G.S. 14-295 through 14-298 is defined as a device  
3 where the user may become entitled to receive any money, credit, allowance, or any thing of  
4 value, as defined in G.S. 14-306."

5 **SECTION 5.** G.S. 14-299 reads as rewritten:

6 "**§ 14-299. Property exhibited by gamblers to be seized; disposition of same.**

7 Except as provided in Chapter 18C or Chapter 18D of the General Statutes or in  
8 G.S. 14-292, all moneys or other property or thing of value exhibited for the purpose of alluring  
9 persons to bet on any game, or used in the conduct of any such game, including any motor  
10 vehicle used in the conduct of a lottery within the purview of G.S. 14-291.1, shall be liable to  
11 be seized by any court of competent jurisdiction or by any person acting under its warrant.  
12 Moneys so seized shall be turned over to and paid to the treasurer of the county wherein they  
13 are seized, and placed in the general fund of the county. Any property seized which is used for  
14 and is suitable only for gambling shall be destroyed, and all other property so seized shall be  
15 sold in the manner provided for the sale of personal property by execution, and the proceeds  
16 derived from said sale shall (after deducting the expenses of keeping the property and the costs  
17 of the sale and after paying, according to their priorities all known prior, bona fide liens which  
18 were created without the lienor having knowledge or notice that the motor vehicle or other  
19 property was being used or to be used in connection with the conduct of such game or lottery)  
20 be turned over and paid to the treasurer of the county wherein the property was seized, to be  
21 placed by said treasurer in the general fund of the county."

22 **SECTION 6.** G.S. 14-301 reads as rewritten:

23 "**§ 14-301. Operation or possession of slot machine; separate offenses.**

24 Except as provided in Chapter 18D of the General Statutes, ~~It~~it shall be unlawful for any  
25 person, firm or corporation to operate, keep in his possession or in the possession of any other  
26 person, firm or corporation, for the purpose of being operated, any slot machine or device  
27 where the user may become entitled to receive any money, credit, allowance, or any thing of  
28 value, as defined in G.S. 14-306. Each time said machine is operated as aforesaid shall  
29 constitute a separate offense."

30 **SECTION 7.** G.S. 14-302 reads as rewritten:

31 "**§ 14-302. Punchboards, vending machines, and other gambling devices; separate**  
32 **offenses.**

33 Except as provided in Chapter 18D of the General Statutes, ~~It~~it shall be unlawful for any  
34 person, firm or corporation to operate or keep in his possession, or the possession of any other  
35 person, firm or corporation, for the purpose of being operated, any punchboard, slot machine or  
36 device where the user may become entitled to receive any money, credit, allowance, or any  
37 thing of value, as defined in G.S. 14-306. Each time said punchboard, slot machine or device  
38 where the user may become entitled to receive any money, credit, allowance, or any thing of  
39 value, as defined in G.S. 14-306 is operated, played, or patronized by the paying of money or  
40 other thing of value therefor, shall constitute a separate violation of this section as to operation  
41 thereunder."

42 **SECTION 8.** G.S. 14-304 reads as rewritten:

43 "**§ 14-304. Manufacture, sale, etc., of slot machines and devices.**

44 Except as provided in Chapter 18D of the General Statutes, ~~It~~it shall be unlawful to  
45 manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away,  
46 transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give  
47 away, or to permit the operation of, or for any person to permit to be placed, maintained, used  
48 or kept in any room, space or building owned, leased or occupied by him or under his  
49 management or control, any slot machine or device where the user may become entitled to  
50 receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306."

51 **SECTION 9.** G.S. 14-305 reads as rewritten:

1 **"§ 14-305. Agreements with reference to slot machines or devices made unlawful.**

2 Except as provided in Chapter 18D of the General Statutes, it shall be unlawful to make or  
3 permit to be made with any person any agreement with reference to any slot machines or device  
4 where the user may become entitled to receive any money, credit, allowance, or any thing of  
5 value, as defined in G.S. 14-306 pursuant to which the user thereof may become entitled to  
6 receive any money, credit, allowance, or anything of value or additional chance or right to use  
7 such machines or devices, or to receive any check, slug, token or memorandum entitling the  
8 holder to receive any money, credit, allowance or thing of value."

9 **SECTION 10.** G.S. 14-306 is amended by adding a new subsection to read:

10 "(e) This section shall not apply to any video gaming machine permitted under Chapter  
11 18D of the General Statutes."

12 **SECTION 11.** G.S. 14-306.1A is amended by adding a new subsection to read:

13 "(g) This section shall not apply to any video gaming machine permitted under Chapter  
14 18D of the General Statutes."

15 **SECTION 12.** Article 4 of Chapter 114 is amended by adding a new section to  
16 read:

17 **"§ 114-19.26. Criminal record checks of video gaming licenses and permits issued by the**  
18 **Department of Revenue.**

19 The Department of Justice may provide to the Department of Revenue and to its Director  
20 from the State and National Repositories of Criminal Histories the criminal history of any  
21 prospective licensed operator and any prospective licensed establishment. The Department of  
22 Revenue shall provide to the Department of Justice, along with the request, the fingerprints of  
23 the prospective licensee, a form signed by the prospective licensee consenting to the criminal  
24 record check and use of fingerprints, and other identifying information required by the State  
25 and National Repositories, and any additional information required by the Department of  
26 Justice. The fingerprints of the prospective licensee shall be forwarded to the State Bureau of  
27 Investigation for a search of the State's criminal history record file, and the State Bureau of  
28 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a  
29 national criminal history record check. The Department of Revenue shall keep all information  
30 obtained pursuant to this section confidential. The Department of Justice shall charge a  
31 reasonable fee only for conducting the checks of the criminal history records authorized by this  
32 section."

33 **SECTION 13.** This act becomes effective December 1, 2009, and applies to  
34 offenses committed on or after that date.